

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Case No. 18-cr-0114 (WMW/HB)

Plaintiff,

ORDER

v.

Mario Martell Spencer (1),

Defendant.

This matter is before the Court on Defendant Mario Martell Spencer's pro se motion to amend or correct the sentencing judgment. (Dkt. 324.) Spencer contends that the sentencing judgment contains a mistake in the amount of restitution was ordered to pay. According to Spencer, he and his co-defendant were each ordered to pay \$1,400 at the time of sentencing but that "for some odd reason [Spencer's] restitution amount is \$2800 instead of \$1400."

Although Spencer cites no legal authority to support his motion, the Court construes his motion as arising under Federal Rule of Criminal Procedure 36. This rule provides that a sentencing court "may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission." Fed. R. Crim. P. 36. Here, the sentencing transcript reflects that the Court ordered Spencer "to pay restitution in the total amount of *at least* \$1,400," noting that the Court would "address the possibility of additional restitution requests later in the hearing." (Emphasis added.) The Court explained that this \$1,400 in restitution was based on the

victims' losses identified in the Presentence Investigation Report—namely, the \$1,400 that Spencer and his co-defendant took from the cash register during the robbery of which Defendants were convicted.

Later in the hearing, the Court observed that additional restitution requests were expected, and the Court gave counsel an opportunity to be heard as to that issue. Counsel for the United States confirmed that, one day before the sentencing hearing, “the Probation Office did forward a restitution request received by one of the victims in this case . . . requesting \$1,400 in restitution for the damage to his garage and the car that was occupied in that garage.” This additional restitution request pertains to the damage Defendants caused when fleeing by car from the scene of the robbery. Counsel for both the United States and Spencer confirmed that there were no objections to the Court ordering this addition \$1,400 in restitution, and the Court so ordered.

Because Spencer has not identified “a clerical error in [the] judgment” or “an error in the record arising from oversight or omission,” Fed. R. Crim. P. 36, his motion to amend or correct the sentencing judgment is denied.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that Defendant Mario Martell Spencer’s motion to amend or correct the sentencing judgment, (Dkt. 324), is **DENIED**.

Dated: March 24, 2022

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge